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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re Patent Application of Hall et al.
Board Appeal No. 2002-1582
Application No. 09/172,577
Application Filing Date 10/13/1998
For INERT GAS BLANKET FOR PROTECTION FROM OXIDATION

JUNE 2003 SUPPLEMENTAL REPLY BRIEF

On Appeal from

Group Art Unit 3682
Primary Examiner Chong H. Kim
Primary Examiner David A. Bucci

Commissioner for Patents
Post Office Box No. 1450
Alexandria, VA 22313-1450

Sir:

Please consider the instant brief in further support of the claimed invention on appeal. This paper is in reply to the 04/07/2003 Examiner's supplemental answer (Paper No. 48).

This supplemental reply brief is submitted in triplicate.

A petition to instruct the Examiner to enter the declaration filed on June 24, 2002 is submitted concurrently.

In Paper No. 48, the Examiner, among other things, stated in regard to the declaration filed on June 24, 2002, which he termed and IDS, that if it were considered the "Sludge Pits" article appended thereto would not negate the Examiner's view that there exists a known technology that would extend the life of lubricant motor oil, and states that that appended article only reports on an automaker, Toyota, who recommends oil changes more frequently than had been originally recommended. The article actually goes on further to state that those at Popular Mechanics have always advocated more frequent oil changes, every 3,000 miles. The Examiner then went on to cite JP 02082304 A, and state that it, and another reference newly cited in Paper No. 48, SUPERBAT TVT oil treatment, are technologies that extend the life of motor oil. First, neither reference is relevant to the present claimed invention. The Japanese patent (Fujiyama) has been discussed amply of record, and, suffice it to say that it requires a solid cover over a liquid oil supply, which would be inoperable in a typical internal combustion engine; and the TVT advertisements relate to a liquid additive for oil and puff about effectiveness, which cannot be taken to be enabling. In contrast, the present claims require an inert gas blanket over the lubricant, and the claims of particular interest on appeal are enabled for and require heretofore unheard of longevity characteristics. See, claims 51 (20,000 miles) and 52 (50,000 miles)!

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Also in Paper No. 48, the Examiner, among other things, stated in regard to the declaration filed on August 30, 2002, which he entered and termed and IDS, that that declaration, and presumably the declaration filed on June 24, 2002, "do not negate 'completely' that [in] the Examiner's view ... there exists at least one known technology that would extend the life of lubricant oil." It appears that the Examiner is acknowledging the propriety of the Appellants' arguments, little by little, by his emphasis of "completely," and well he should. However, his view does not comport with the invention as claimed, which requires employment of an inert gas blanket. The material submitted with the declaration filed on August 30, 2002, and the material submitted with the declaration filed on June 24, 2002, strongly supports the patentability of the claims, especially claims 51 and 52, which, again, are enabled for and require astounding levels of longevity as a result of employment of the claimed inert gas blanket. Nothing in the prior art comes close -- close to operating in the same manner as does the present claimed invention, i.e., through employment of an inert gas blanket, nor close to such high levels of protection afforded. See, claims 51 (20,000 miles) and 52 (50,000 miles).

Reversal of the Examiner is even more clearly in order, and remains requested.

Respectfully,

RICHARD H. HALL ET AL.

Dated: June 5, 2003 A.D.

By



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